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# ATLANTIC COAST LINE RAILROAD COMPANY

GEO L CAIN,  
SENIOR ASSISTANT TO PRESIDENT

## OFFICE OF PRESIDENT

WILMINGTON, N. C.

May 3, 1957

Honorable Harold D. McCoy, Secretary  
Interstate Commerce Commission  
Washington 25, D. C.

(Filed pursuant to the  
Provisions of Section 20c  
Interstate Commerce Act)

Dear Sir:

I am forwarding herewith for filing, pursuant to § 20c of the Interstate Commerce Act, original Counterparts Nos. 3, 4 and 5 of Lease of Railroad Equipment, dated as of October 1, 1956, between The Equitable Life Assurance Society of the United States, Lessor, with offices at 261 Madison Avenue, New York 16, New York, and Atlantic Coast Line Railroad Company, Lessee, Wilmington, North Carolina.

This instrument covers the lease by the Railroad of 200 new 70-ton covered hopper cars of all steel construction, equipped with roller bearings, with length over striking plates of 37' 6", AAR mechanical designation L0, said cars to bear numbers of Atlantic Coast Line Railroad Company 10,000 to 10,199, inclusive.

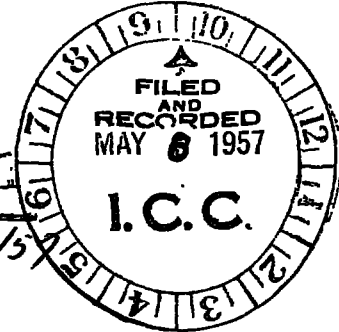
There has been no prior recording with the Interstate Commerce Commission of any document relating to this transaction.

There is attached this Company's check in the amount of \$50.00 payable to the Treasurer of the United States covering the fee involved.

Please deliver the original Counterpart No. 3, bearing the Commission's endorsement of recordation to Mr. Thomas Fuller, Assistant to President, Atlantic Coast Line Railroad Company, 814 Connecticut Avenue, N. W., Washington, D. C.

Very truly yours,

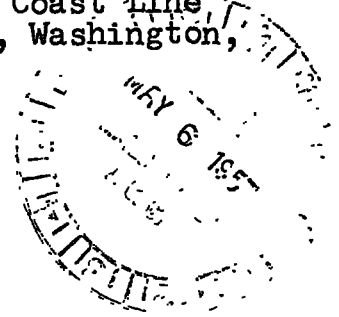
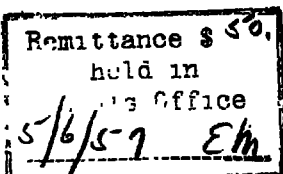
*Geo L. Cain*



118

5/9/57

*Rec'd by  
Blanche Foster  
5/6/57*



*9-15-57*

**Interstate Commerce Commission**

OFFICE OF THE SECRETARY

Washington 25

May 6, 1957

Mr. Geo. L. Cain,  
Senior Assistant to President,  
Atlantic Coast Line Railroad Co.,  
Wilmington, N. C.

Dear Sir:

The enclosed document was recorded pursuant to the provisions of Section 20(c) of the Interstate Commerce Act, as amended, on May 6, 1957 at 9:30 A. M. , and assigned recordation number 1181 .

Respectfully,



Secretary.

Encl.

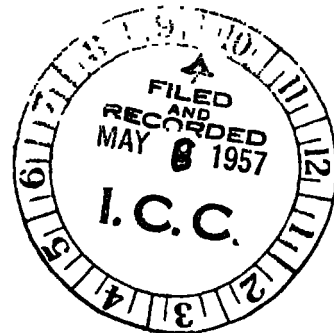
MAY -6 '57 152225

G. S. C. Co.

RECORDATION No. 1181  
(Filed pursuant to the  
Provisions of Section 20e  
Interstate Commerce Act) *5/9/57*

## LEASE OF RAILROAD EQUIPMENT

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THE EQUITABLE LIFE ASSURANCE SOCIETY OF  
THE UNITED STATES,

Lessor,

TO

ATLANTIC COAST LINE RAILROAD COMPANY,

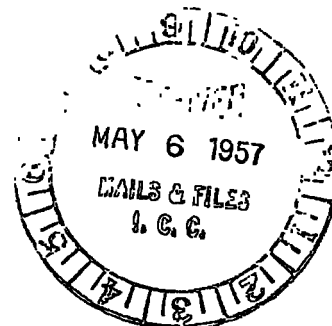
Lessee.

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200 New 70-Ton Covered Hopper Cars

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*Dated as of October 1, 1956*



**THIS LEASE OF RAILROAD EQUIPMENT**, dated as of October 1, 1956, between THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, a New York corporation (hereinafter called the "*Lessor*"), party of the first part, and ATLANTIC COAST LINE RAILROAD COMPANY, a Virginia corporation (hereinafter called the "*Lessee*"), party of the second part:

WITNESSETH :

WHEREAS, the Lessor has entered into a Manufacturing Agreement with Greenville Steel Car Company, a Pennsylvania corporation (hereinafter called the "*Manufacturer*"), dated as of the date hereof, wherein the Manufacturer has agreed to manufacture, sell and deliver to the Lessor 200 new 70-Ton Covered Hopper Cars in accordance with the specifications and a general arrangement drawing therefor delivered to the Lessor by the Manufacturer as of the date hereof and duly approved by the Lessee by endorsement thereon (such specifications and drawing, with such modifications therein as may be approved by the Manufacturer, the Lessor and the Lessee, being hereinafter called the "*Specifications*"); and

WHEREAS, the Lessee desires to lease said 200 Cars, or such lesser number as are delivered and accepted under said Manufacturing Agreement on or prior to December 31, 1957 (hereinafter called the "*Cars*"), from the Lessor at the rental and for the term and upon the conditions hereinafter provided;

Now, THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by the Lessee, the Lessor hereby leases the Cars to the Lessee upon the following terms and conditions, namely:

§ 1. *Delivery and Acceptance of Cars.* During the manufacture of each Car, the Lessee will cause the materials and other components which are to be incorporated in, and the construction of, such Car to be inspected by its authorized representative at the plant at which such Car is being constructed. Upon completion of manufacture thereof, if

such representative finds that such Car complies fully with the Specifications, the Lessee will cause such representative to execute and deliver to the Lessor and to the Manufacturer a Certificate of Inspection, substantially in the form hereto attached and marked *Exhibit 1*.

Promptly thereafter the Lessor will cause such Car to be tendered to the Lessee on the line of railroad of the Lessee at Acca, Virginia. Upon such tender, the Lessee will cause such Car to be further inspected by the same or another authorized representative. If such representative finds that such Car is in good order and ready for service, the Lessee will cause such representative to execute and deliver to the Lessor and to the Manufacturer a Certificate of Acceptance, substantially in the form hereto attached and marked *Exhibit 2*; whereupon such Car shall be deemed to have been delivered to and accepted by the Lessee and shall be subject thereafter to all of the terms and conditions of this Lease.

§ 2. *Rentals.* The Lessee agrees to pay to the Lessor as rental for the Cars, the following amounts in cash:

A. a daily rental of \$3.7858 for each of the Cars subject to this Lease beginning on the day on which such Car is delivered to and accepted by the Lessee hereunder and continuing during the period ending on the last day of the calendar month in which the 200th Car is so delivered to and accepted by the Lessee or ending on December 31, 1957, whichever shall be earlier;

B. (1) a daily rental of \$3.7858 for each of the Cars beginning on the first day of the calendar month next succeeding the calendar month in which the 200th Car is delivered to and accepted by the Lessee or on January 1, 1958, whichever shall be earlier, and continuing during the period ending 3 years after the average date of acceptance (as hereinafter defined) of all of the Cars by the Lessee; (2) thereafter a daily rental of \$2.9027 for each of the Cars during the next succeeding 3 years; (3) thereafter a daily rental of \$2.6494 for each of the Cars during the next succeeding 3 years; (4) thereafter a daily rental of \$2.0186 for each of the Cars during the next succeeding 3 years; and (5) thereafter a daily rental of \$1.0573 for each of the Cars during the next succeeding 3 years;

C. in addition to the rental payable for each Car pursuant to the preceding *Subsection A*, an additional rental for the first day such Car is subject to this Lease equal to 13.414 cents multiplied by the number of days in the period commencing on May 1, 1956, and ending on the day prior to such first day;

D. in case all of the aforementioned 200 Cars have not been delivered and accepted by the Lessee prior to January 1, 1958, an additional rental for January 1, 1958, for all of the Cars then subject hereto (in addition to the rental payable therefor pursuant to the preceding *Subsections A, B and C*) equal to the aggregate rental for December 31, 1957, which would have been payable under the preceding *Subsection C* with respect to all such Cars which have not been so delivered and accepted if the delivery and acceptance thereof hereunder had taken place on December 31, 1957; and

E. after the occurrence of an event of default as defined in § 10 hereof and so long as such default shall continue and this Lease shall not have been terminated, in addition to the daily rental for such Car payable pursuant to the preceding *Subsections A, B, C and/or D*, as the case may be, a further rental for such Car in an amount equal to the amount by which the daily rental for such Car receivable by the Lessee from others shall exceed such daily rental payable pursuant to the preceding *Subsections A and B*;

provided, however, that if, pursuant to said Manufacturing Agreement between the Lessor and the Manufacturer, the basic purchase price per Car payable by the Lessor to the Manufacturer shall be adjusted, the Lessor agrees that, promptly after the Lessor's acceptance of a price certificate (endorsed by the Lessee to show its satisfaction with the accuracy of the application of the formula set forth in § 1 of said Manufacturing Agreement for increasing or decreasing said basic purchase price per Car) delivered to it by the Manufacturer pursuant to said § 1 (such price certificate being hereinafter called the "*Accepted Price Certificate*"), it will deliver to the Lessee an original counterpart of the Accepted Price Certificate, in which event the Lessee's obligation in respect of daily rentals theretofore paid and thereafter payable hereunder shall be adjusted, as hereinafter provided, as of the first day of the calendar month (hereinafter called the "*rent adjustment date*")

in which such Accepted Price Certificate is delivered to the Lessee (provided that for all purposes hereof any Accepted Price Certificate delivered to the Lessee on or within the 5 days next preceding the first day of any calendar month shall be deemed to have been delivered on the second day of such calendar month), and the Lessee agrees that

F. in case a Price Increase per Car is specified in such Accepted Price Certificate, then on the first day of the calendar month next succeeding the rent adjustment date the Lessee will pay in cash to the Lessor as an additional rental payment for the past use (prior to the rent adjustment date) of each Car which was at any time subject to this Lease an amount computed by multiplying the number of days in the period commencing on the day such Car became subject to this Lease and ending on the day prior to the rent adjustment date by the product (hereinafter called the "*Increase Factor*") obtained by multiplying the amount of the Price Increase per Car by .0002416;

G. in case a Price Decrease per Car is specified in such Accepted Price Certificate, then on the first day of the calendar month next succeeding the rent adjustment date the Lessor will pay in cash to the Lessee as a refund on the rental payments theretofore made for the past use (prior to the rent adjustment date) of each Car which was at any time subject to this Lease an amount computed by multiplying the number of days in the period commencing on the day such Car became subject to this Lease and ending on the day prior to the rent adjustment date by the product (hereinafter called the "*Decrease Factor*") obtained by multiplying the amount of the Price Decrease per Car by .0002416;

H. the daily rentals payable for each of the Cars pursuant to the preceding *Subsection B* accruing on and after the rent adjustment date shall, in the case of a Price Increase, be increased by an amount equal to the Increase Factor or, in the case of a Price Decrease, be decreased by an amount equal to the Decrease Factor (in either case, rounded out to the nearest one hundredth of a cent), and for all purposes hereof such adjusted daily rentals shall be deemed to be the daily rentals accruing pursuant to the preceding *Subsection B* on and after the rent adjustment date; and

I. in the case of each Car in respect of which a payment pursuant to § 7 hereof has been made prior to or on the rent

adjustment date, in the event of a Price Increase, the Lessee will pay in cash to the Lessor, or, in the event of a Price Decrease, the Lessor will pay in cash to the Lessee, in either case on the first day of the calendar month next succeeding the rent adjustment date, an amount for each full calendar month (and also for any additional period of less than a full calendar month) in the period commencing with the rent adjustment date and ending on the last day of the original term, as hereinafter defined (or ending on a date 15 years after the day such Car was accepted by the Lessee hereunder if such payment pursuant to § 7 hereof was made before the average date of acceptance, as hereinafter defined, of all the Cars by the Lessee was ascertainable), equal to the Increase Factor or the Decrease Factor, as the case may be, multiplied by the number of days in such full calendar month (or in the case of a period less than a full calendar month, by the number of days in such period) discounted, in each case, at the rate of  $3\frac{3}{8}\%$  per annum (compounded monthly) from the last day of such calendar month to the first day of the calendar month in which payment is made with respect to such Car pursuant to this Subsection.

All rentals accrued pursuant to *Subsections A* and *C* above in each calendar month shall be paid to the Lessor on the fifth day of the next succeeding calendar month; all rentals accrued pursuant to *Subsections B* and *D* above in each calendar month shall be paid to the Lessor on the first day of the next succeeding calendar month; and all rentals accrued pursuant to *Subsection E* above in each calendar month shall be paid to the Lessor on the first day of the second calendar month following the calendar month in which such rentals accrue.

All payments provided for in this Lease shall, if to the Lessor, be made at the office of the Lessor at 393 Seventh Avenue, New York 1, N. Y., Attention: Treasurer's Department—Securities Custody Division, or, if to the Lessee, be made at the office of the Treasurer of the Lessee at Wilmington, North Carolina, or, in either case, at such other place or places as the parties hereto shall agree in writing.

§ 3. *Term of Lease.* The term of this Lease shall begin on the date of the delivery to and acceptance by the Lessee of the first Car so delivered and accepted and, subject to the provisions of § 10 hereof, shall terminate at the expiration of 15 years after the average date of

acceptance of all of the Cars by the Lessee (such term being hereinafter called the "*original term*").

The "*average date of acceptance*" shall be a date determined as follows: Multiply the number of Cars accepted by the Lessee on each date of acceptance by the number of days elapsed subsequent to the date of the acceptance of the first Car accepted, then add the products so obtained and divide by the total number of Cars accepted, and the quotient rounded out to the nearest whole number will be the number of days elapsed subsequent to the date of the acceptance of the first Car to (and including) the date which is the average date of acceptance; provided, however, that in determining the average date of acceptance in accordance with this paragraph there shall be excluded from such determination each Car with respect to which a payment pursuant to § 7 hereof was made before the average date of acceptance was ascertainable.

§ 4. *Identification Plates.* At or prior to the time of each delivery of Cars by the Lessor to the Lessee, the Lessee shall cause to be plainly, distinctly, permanently and conspicuously placed and fastened upon each side of each Car then delivered a metal plate bearing the following words in letters not less than one inch in height:

"THE EQUITABLE LIFE ASSURANCE SOCIETY OF  
THE UNITED STATES, OWNER AND LESSOR."

If during the continuance of this Lease any such plate on any Car shall at any time be removed, defaced or destroyed, the Lessee shall immediately cause the plate to be restored or replaced. The Lessee shall not allow the name of any person, association or corporation to be placed on any of the Cars as a designation which might be interpreted as indicating a claim of ownership thereof by any person, association or corporation other than the Lessor; but the Lessee may letter the Cars with the names or initials or other insignia customarily used by the Lessee on its railroad cars of the same or a similar type for convenience of identification of the right of the Lessee to use and operate the Cars under this Lease and to interchange the same with other railroad companies.

§ 5. *Numbering.* At or prior to the time of each delivery of Cars by the Lessor to the Lessee, the Lessee will cause the identifying symbol ACL to be placed on, and will cause one of the Lessee's car numbers to be assigned to and placed on, each side of each Car then delivered, such car numbers to commence with 10000 and to run consecutively upwards, and at all times thereafter the Lessee will cause each Car subject to this Lease to bear on each side thereof such identifying symbol and the car number so assigned to it.

§ 6. *Taxes.* The Lessee agrees that, during the continuance of this Lease, in addition to the rentals herein provided, it will promptly pay all taxes, assessments and other governmental charges levied or assessed upon the interest of the Lessee in the Cars subject to this Lease or any thereof or upon the use or operation thereof or the earnings arising therefrom and will promptly pay or reimburse the Lessor for all taxes, assessments and other governmental charges levied or assessed against the Lessor on account of its ownership of such Cars or any thereof or on account of the use or operation thereof or on account of the earnings arising therefrom (exclusive, however, of any taxes on the rentals herein provided for except any such tax on rentals which is in lieu of, or relieves the Lessee from, the payment of taxes which it would otherwise be obligated to pay or reimburse as hereinbefore provided), including any sales or similar taxes payable on account of the leasing of the Cars hereunder; but the Lessee shall not be required to pay the same so long as it shall in good faith and by appropriate legal or administrative proceedings contest the validity or amount thereof unless thereby, in the judgment of the Lessor, the rights or interests of the Lessor will be materially endangered. In the event any tax reports are required to be made on the basis of individual Cars, the Lessee will either make such reports in such manner as to show the ownership of such Cars by the Lessor or will notify the Lessor of such requirement and will make such report in such manner as shall be satisfactory to the Lessor.

§ 7. *Maintenance; and Payment for Lost, Destroyed or Damaged Cars.* The Lessee agrees to maintain and keep all of the Cars subject

to this Lease in good order and repair, ordinary wear and tear excepted, at its own cost and expense.

In case any Car shall become lost, destroyed or damaged beyond repair, then, on the first day thereafter that rental is required to be paid pursuant to § 2 hereof, the Lessee shall (except as otherwise provided in § 11C hereof) pay to the Lessor (in addition to the accrued daily rental for such Car which is payable on such day), as damages in lieu of any further claim of the Lessor to or on account of such Car (other than under *Subsections F* and *I* of § 2 hereof), an amount in cash equal to the sum of

A. the present value (determined as below set forth) of the total remaining daily rental for such Car which would otherwise accrue under *Subsections A* and *B* of § 2 hereof from and including the first day of the calendar month in which such cash payment is made to the expiration of the original term of this Lease (or to a date 15 years after the acceptance of such Car by the Lessee, if the average date of acceptance of all of the Cars by the Lessee is not then ascertainable), plus

B. the scrap value of such Car, which term as used in this Lease shall mean the value of 24.6 gross tons of No. 1 railroad heavy melting steel scrap, computed at the current quoted price thereof per gross ton at Birmingham, Alabama, on the date such Car was lost, destroyed or damaged beyond repair.

To determine, for the purposes of *Subsection A* above, the present value of such total remaining daily rental, the rental in respect of each calendar month shall be discounted on a  $3\frac{3}{8}\%$  per annum basis (compounded monthly) from the last day of such calendar month to the first day of the calendar month in which such cash payment is made pursuant to this Section.

Whenever such a cash payment is made to the Lessor under this Section with respect to any Car, the daily rental for such Car provided for in § 2 hereof shall thereafter be abated and shall cease to accrue as of the first day of the calendar month in which such cash payment is made and such Car shall no longer be deemed to be one of the Cars subject to this Lease. The Lessee shall bear the risk of and, except as hereinabove in this Section or in § 11C hereof provided, shall

not be released from its obligations hereunder in the event of any loss or destruction of or damage to any of the Cars for any cause whatsoever after the acceptance of delivery thereof hereunder by the Lessee.

§ 8. *Annual Reports and Inspection.* The Lessee will furnish to the Lessor on or before the last day of January in each year, commencing with the year 1958, and at such other times as the Lessor shall request, during the continuance of this Lease, an accurate statement signed by the President or one of the Vice Presidents of the Lessee, stating

A. as of the last day of the preceding calendar month, (1) the car numbers of all Cars then subject to this Lease, (2) the car numbers of all Cars that have become lost, destroyed or damaged beyond repair during the period elapsed since the end of the period covered by the last previous such report (or since the date hereof in the case of the first such report), (3) the car numbers of all serviceable Cars, (4) the car numbers of all Cars awaiting repairs, and (5) the car numbers of all Cars in the shops for repairs, and

B. that, in the case of all Cars repainted or repaired during such period, the metal plates required to be affixed thereto by § 4 hereof have been preserved on such Cars or that such Cars have been again plated as required by said § 4 and that the identifying symbol and the appropriate car number has been repainted or preserved on each side of each such Car in accordance with § 5 hereof.

The Lessor shall have the right, by its authorized representatives, to inspect the Cars, at the sole cost and expense of the Lessee, at such times as shall be reasonably necessary to confirm to the Lessor the existence and proper maintenance thereof during the continuance of this Lease.

§ 9. *Compliance with Laws and Rules; and Indemnification.* The Lessee agrees to comply with all Governmental laws, regulations and requirements, and with the Rules of Interchange of the Association of American Railroads (or of any successor thereto), with respect to the use, maintenance and operation of each Car subject to this Lease; in case any equipment or appliance on any such Car shall be required

to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such Car in order to comply with such laws, regulations, requirements and Rules, the Lessee agrees to make such changes, additions and replacements; and the Lessee agrees to maintain such Car in full compliance with such laws, regulations, requirements and Rules so long as it is subject to this Lease.

Any parts installed or replacements made upon the Cars by the Lessee shall be considered accessions to the Cars and title thereto shall be immediately vested in the Lessor, without cost or expense to the Lessor.

The Lessee agrees to indemnify and save harmless the Lessor against any charge or claim against the Lessor, and against any expense or liability which the Lessor may incur by reason of its ownership of any Car while it is subject to this Lease, in any manner arising out of or as a result of the use or operation of such Car, and to indemnify and save harmless the Lessor against any claim or suit on account of any accident in connection with the operation of such Car resulting in damage to property or injury to any person.

The Lessor makes no warranty or representation either expressed or implied as to the fitness, design or condition of, or as to the quality of the material, equipment or workmanship in, the Cars, it being agreed that all such risks as between the Lessor and Lessee are to be borne by the Lessee.

§ 10. *Default.* If, during the continuance of this Lease, one or more of the following events (herein sometimes called "*events of default*") shall occur:

A. default shall be made in the payment of any part of the rental provided in § 2 hereof and such default shall continue for 30 days;

B. the Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Cars, or any thereof, and shall fail or refuse to cause such assignment or transfer to be cancelled by agreement of all parties having any interest therein and to recover possession of such Cars within 30 days after written notice from the Lessor to the Lessee demanding such cancellation and recovery of possession;

C. default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for 30 days after written notice from the Lessor to the Lessee specifying the default and demanding the same to be remedied;

D. a decree or order by a court having jurisdiction in the premises shall have been entered

(1) adjudging the Lessee a bankrupt or insolvent,

(2) approving as properly filed a petition seeking re-organization of the Lessee under the Bankruptcy Act or any other State or Federal law,

(3) for the appointment of a receiver or liquidator or trustee in bankruptcy or insolvency of the Lessee or of its property or any substantial portion of its property, or

(4) for the winding up or liquidation of the affairs of the Lessee,

and within 30 days thereafter the obligations of the Lessee hereunder shall neither have been assumed pursuant to a decree or order of such court by the receiver or trustee in such proceedings nor otherwise have been given, pursuant to a decree or order of such court, a status comparable to that of obligations incurred by a receiver in bankruptcy or insolvency proceedings; or

E. if, under any other lease of railroad equipment between the Lessor and the Lessee, an event of default as defined in such other lease shall occur, and shall be continuing unremedied;

then, in any such case, the Lessor, at its option, may

(a) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof; or

(b) by notice in writing to the Lessee terminate this Lease, whereupon all right of the Lessee to or in the use of the Cars shall absolutely cease and determine as though this Lease had never been made, but the Lessee shall remain liable as herein-after provided; and thereupon, the Lessor may by its agents enter upon the premises of the Lessee or other premises where

any of the Cars may be and take possession of all or any of such Cars and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use the Cars for any purposes whatever; but the Lessor shall, nevertheless, have a right to recover from the Lessee any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, if such termination occurs prior to the expiration of the original term, a sum which represents the excess of the present worth, at the time of such termination, of the aggregate rentals for the Cars which would otherwise have accrued hereunder from the date of such termination to the end of the original term over the then present worth of the fair rental value of the Cars for such period, such present worth to be computed in each case on the basis of a  $3\frac{7}{8}\%$  per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, and (ii) any damages in addition thereto which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental.

The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law.

§ 11. *Extension of Term.* The Lessee shall have the right and option, by written notice to the Lessor not less than 60 days prior to the expiration of the original term, to continue, subject to the provisions of § 10 hereof, this Lease for an additional term of 10 years (hereinafter called the "*extended term*"), in which event all of the terms, provisions and conditions herein set forth shall be as applicable during the extended term as during the original term, except as follows:

A. the rental payable in cash for the use of each Car shall be 20 cents for each day such Car is subject to this Lease during the extended term;

B. the Lessee shall have the right to terminate this Lease as to any Car or Cars and deliver the same to the Lessor in the manner provided in § 12 hereof at any time upon 30 days' written notice to the Lessor, whereupon such Car or Cars shall no longer be deemed to be subject to this Lease; and

C. in case any Car shall become lost, destroyed or damaged beyond repair during the extended term, the Lessee shall pay in cash to the Lessor, as damages in lieu of any further claim of the Lessor to or on account of such Car, the scrap value thereof (as defined in § 7B hereof), and upon such payment such Car shall no longer be deemed to be subject to this Lease.

All rentals accrued pursuant to *Subsection A* above in each calendar month shall be paid to the Lessor on the first day of the next succeeding calendar month.

§ 12. *Return of Cars.* Upon the expiration of the original term of this Lease, provided the Lessee shall not have exercised its option to continue this Lease pursuant to § 11 hereof, or upon the termination of this Lease as to any Car or Cars as provided in said § 11 during or at the expiration of the extended term, or upon the termination of this Lease pursuant to the provisions of § 10 hereof, the Lessee shall forthwith deliver possession of the Cars or Car, as the case may be, to the Lessor in good order and repair, ordinary wear and tear excepted. For the purpose of delivering possession of any Cars to the Lessor as above required, the Lessee shall at its own cost and expense

A. forthwith assemble the Cars and place them upon such storage tracks of the Lessee as the Lessor may designate or, in the absence of such designation, as the Lessee may select,

B. permit the Lessor to store said Cars on such tracks for a period not exceeding 100 days at the risk of the Lessor, and

C. transport the same or any thereof, at any time within such 100 day period, to any place or places on the lines of railroad operated by it or to any connecting carrier for shipment, all as directed by the Lessor.

The assembling, delivery, storage and transporting of the Cars as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor

shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Cars.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Car to the Lessor, to demand and take possession of such Car in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Car.

§ 13. *Assignment and Possession.* This Lease shall be assignable by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to the possession and use of the Cars in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee shall not assign, transfer or encumber its leasehold interest under this Lease in the Cars or any of them (except to the extent that the provisions of any existing mortgage of the Lessee may require the subjection of such leasehold interest to the lien thereof). The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Cars, except that the Lessee may permit the use thereof or any part thereof by other railroad companies in the usual interchange of traffic.

Nothing in this Section shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Cars or possession of the Cars to any corporation (which shall have assumed the obligations hereunder of the Lessee) into or with which the Lessee shall have become merged or consolidated or which shall have acquired the property of the Lessee as an entirety or substantially as an entirety; nor shall any assignment or transfer of such leasehold interest or of possession or control of the Cars or any thereof to a receiver or trustee or other court officer appointed in any judicial proceedings under circumstances which do not constitute an event of

default under § 10D hereof be deemed to constitute a violation of this Section.

§ 14. *Opinion of Counsel.* Concurrently with the execution and delivery of this Lease, the Lessee has delivered to the Lessor the written opinion of R. B. Gwathmey, General Solicitor for the Lessee, in scope and substance satisfactory to the Lessor and its counsel, to the effect

A. that the Lessee is a corporation legally incorporated and validly existing, in good standing, under the laws of the State of Virginia, with adequate corporate power to enter into this Lease;

B. that this Lease has been duly authorized, executed and delivered by the Lessee and constitutes a valid, legal and binding agreement of the Lessee enforceable in accordance with its terms;

C. that if this Lease is filed with the Interstate Commerce Commission it need not, in order to protect the Lessor's title to the Cars, be otherwise filed, deposited, registered or recorded under the provisions of any other law of the United States of America or of any State (or of any political subdivision thereof), territory, district or possession thereof respecting the filing, depositing, registration or recordation of this Lease;

D. that no approval is required from any public regulatory body with respect to the entering into or performance of this Lease; and

E. that the entering into and performance of this Lease will not result in any breach of, or constitute a default under, or result in the creation of any lien, charge or encumbrance upon the Lessee's leasehold interest under this Lease in the Cars (except to the extent that the provisions of any existing mortgage of the Lessee may require the subjection of such leasehold interest to the lien thereof) pursuant to, any indenture, mortgage, deed of trust, bank loan or credit agreement or other instrument to which the Lessee is a party or by which it may be bound.

§ 15. *Recording.* The Lessee will, prior to the delivery of the first Car, cause this Lease to be filed with the Interstate Commerce Commission and to be filed, deposited, registered or recorded where-

ever else required (and thereafter will cause it to be filed, deposited, registered or recorded and refiled, redeposited, reregistered or rerecorded whenever and wherever required) for the proper protection, to the satisfaction of the Lessor, of the Lessor's title to the Cars in the United States of America; and the Lessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, deposit, register or record (and will refile, redeposit, reregister or rerecord whenever required) any and all further instruments, required by law or reasonably requested by the Lessor, for the purpose of such protection of its title, or for the purpose of carrying out the intention of this Lease. The Lessee will pay all costs, charges and expenses incident to the filing, refiling, depositing, redepositing, registering, reregistering, recording and rerecording of this Lease and incident to the preparation, execution, filing, refiling, depositing, redepositing, registering, reregistering, recording and rerecording of any such further instrument or incident to the taking of any such other action.

§ 16. *Notices.* Any notice required or permitted to be given by either party hereto to the other shall be deemed to have been given when deposited in the United States mails, first-class postage prepaid, addressed as follows:

If to the Lessor:

THE EQUITABLE LIFE ASSURANCE  
SOCIETY OF THE UNITED STATES,  
261 Madison Avenue,  
New York 16, N. Y.  
*Attention: Securities Investment Department.*

If to the Lessee:

ATLANTIC COAST LINE RAILROAD COMPANY,  
Wilmington, North Carolina.  
*Attention: C. McD. Davis, President.*

or addressed to either party at such other address as such party shall hereafter furnish to the other party in writing.

§ 17. *Execution in Counterparts.* This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original, and in each case such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Lessor and the Lessee, pursuant to due corporate authority, have caused these presents to be signed in their respective corporate names and their respective corporate seals to be hereunto affixed, duly attested, as of the day and year first above written.

THE EQUITABLE LIFE ASSURANCE SOCIETY  
OF THE UNITED STATES,

Lessor,

By William R. Crisp  
Vice President.

Attest:

Grace D. Jordan  
ASST. Secretary.

ATLANTIC COAST LINE RAILROAD  
COMPANY,

Lessee,

By W. G. Davis  
President.

Attest:

C. F. Hinman  
Assistant Secretary.

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

On this 30<sup>TH</sup> day of APRIL, 1957, before me personally appeared WILLIAM R. COWIE, to me personally known, who, being by me duly sworn, says that he is a Vice President of THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

*Thomas P. Devine*

THOMAS P. DEVINE  
Notary Public, State of New York  
No. 24-0937385  
Qualified in Kings Co.  
Cert. filed in New York Co.  
Comm. expires March 30, 1959

STATE OF NORTH CAROLINA }  
COUNTY OF NEW HANOVER } ss.:

On this 21<sup>st</sup> day of March, 1957, before me personally appeared E. McD. DAVIS, to me personally known, who, being by me duly sworn, says that he is President of ATLANTIC COAST LINE RAILROAD COMPANY, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

*P. W. Killian*

P. W. KILLIAN, NOTARY PUBLIC  
NEW HANOVER COUNTY, N. C.  
MY COMMISSION EXPIRES FEBRUARY 25, 1958.

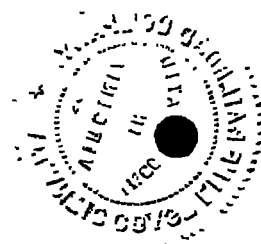


EXHIBIT 1.

CERTIFICATE OF INSPECTION.

The undersigned, the duly authorized representative of The Equitable Life Assurance Society of the United States and of Atlantic Coast Line Railroad Company, hereby certifies with respect to ..... new 70-Ton Covered Hopper Cars, bearing the identifying symbol ACL and car numbers of said Railroad as follows: .....

....., pursuant to that certain Lease of Railroad Equipment, dated as of October 1, 1956, between said Society and said Railroad:

1. that during the manufacture of said Cars by Greenville Steel Car Company, he, either personally or through qualified inspectors working under his supervision, inspected in accordance with inspection and testing practices and methods which in his opinion are adequate for the protection of said Society and said Railroad and which practices and methods conform to the standards recommended by the Association of American Railroads, the materials and other components which were incorporated in, and the construction of, said Cars; and

2. that the materials and other components incorporated in, and the construction of, said Cars comply fully with, and said Cars have been completed in full accordance with, the Specifications referred to in said Lease of Railroad Equipment.

Dated: ..... , 1957.

.....  
*Duly Authorized Representative of*  
 THE EQUITABLE LIFE ASSURANCE SOCIETY  
 OF THE UNITED STATES *and of*  
 ATLANTIC COAST LINE RAILROAD COMPANY.

## EXHIBIT 2.

## CERTIFICATE OF ACCEPTANCE.

The undersigned, the duly authorized representative of Atlantic Coast Line Railroad Company, hereby certifies that ..... new 70-Ton Covered Hopper Cars (manufactured by Greenville Steel Car Company), bearing the identifying symbol ACL and car numbers of said Railroad as follows: .....

....., have been delivered in good order and ready for service by The Equitable Life Assurance Society of the United States at Acca, Virginia, and were accepted by the undersigned on ..... , 1957, on behalf of said Railroad, in accordance with the provisions of that certain Lease of Railroad Equipment, dated as of October 1, 1956, between said Society and said Railroad.

The undersigned further certifies that there was plainly, distinctly, permanently and conspicuously fastened upon each side of each of said Cars at the time of its delivery and acceptance a metal plate bearing the following words in letters not less than one inch in height: "THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, OWNER AND LESSOR."

Dated: ....., 1957.

.....  
*Duly Authorized Representative of*  
 ATLANTIC COAST LINE RAILROAD COMPANY.